

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

In the matter of:

Next Generation Gelcoat, Inc.
9349 Bond Avenue
El Cajon, California 92021

Complaint No. R9-2006-0081
for
Administrative Civil Liability

June 6, 2006

WDID No. 9 371018874

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Next Generation Gelcoat, Inc., located at 9349 Bond Avenue, El Cajon, California, is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to Section 13399.3 of the California Water Code (CWC).
2. On June 24, 2004, Next Generation Gelcoat, Inc. submitted a Notice of Intent for coverage under Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit).
3. Order No. 97-03-DWQ requires the submittal of an annual monitoring report by July 1 of each year. Enrolled facilities are required to sample storm water runoff during two storm events per year.

ALLEGATIONS

4. Next Generation Gelcoat, Inc. failed to submit the Fiscal Year (FY) FY 2004-05 annual monitoring report in violation of Monitoring and Reporting Requirement Section B.14 of Order No. 97-03-DWQ.

MAXIMUM LIABILITY

5. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day of violation.
6. Based on non-submittal of the FY 2004-05 annual report, Next Generation Gelcoat, Inc. is alleged to have violated the General Permit for 334 days (from July 2, 2005 to May 31, 2006). The total maximum liability for this violation is \$3,340,000.

7. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a mandatory minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code.
8. Section 13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstance, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall recover any economic benefit derived from the violation.
9. The FY 2004-05 annual report was the first report submittal required by Next Generation Gelcoat, Inc. since enrolling for coverage under the General permit. The Regional Board issued a Notice of Violation (NOV) to Next Generation Gelcoat, Inc. on August 5, 2005. The NOV was subsequently faxed to the facility on November 10, 2005. Failure to provide the annual report circumvents the regulations, deprives the Regional Board of knowledge of the facilities efforts to control storm water runoff, and removes an effective mechanism to determine which best management practices should be employed at an industrial facility to reduce or prevent pollutants in storm water discharges. Next Generation Gelcoat, Inc. has exhibited a high degree of culpability with regards to this violation by ignoring the Regional Board's NOV for the missing report.

PROPOSED LIABILITY

10. After consideration of the factors listed in paragraph 8, above, it is recommended that the Regional Board impose civil liability against Next Generation Gelcoat, Inc. in the amount of two thousand five hundred dollars (\$2,500) for failure to submit the FY 2004-05 annual report.

Dated this sixth day of June 2006.



JOHN H. ROBERTUS
Executive Officer